

SB 505 -

FILED

2004 APR -2 P 4: 01

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2004



ENROLLED

Committee SUBSTITUTE FOR
SENATE BILL NO. 505

(By Senators *Ross and Love*)



PASSED MARCH 13, 2004

In Effect 90 days From Passage

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SECRETARY OF STATE

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 505

(SENATORS ROSS AND LOVE, *original sponsors*)

[Passed March 13, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §17A-1-1 of the code of West Virginia, 1931, as amended; to amend and reenact §17A-3-2 of said code; and to amend and reenact §17A-6-3 and §17A-6-18 of said code, all relating to creating a motor vehicle classification of “low-speed vehicle”.

Be it enacted by the Legislature of West Virginia:

That §17A-1-1 of the code of West Virginia, 1931, as amended, be amended and reenacted; that §17A-3-2 of said code be amended and reenacted; and that §17A-6-3 and §17A-6-18 of said code be amended and reenacted, all to read as follows:

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17A-1-1. Definitions.

- 1 Except as otherwise provided in this chapter, the
- 2 following words and phrases, when used in this chapter,

3 shall have the meanings respectively ascribed to them in
4 this article:

5 (a) "Vehicle" means every device in, upon or by which
6 any person or property is or may be transported or drawn
7 upon a highway, excepting devices moved by human
8 power or used exclusively upon stationary rails or tracks.

9 (b) "Motor vehicle" means every vehicle which is
10 self-propelled and every vehicle which is propelled by
11 electric power obtained from overhead trolley wires, but
12 not operated upon rails.

13 (c) "Motorcycle" means every motor vehicle, including
14 motor-driven cycles and mopeds as defined in sections five
15 and five-a, article one, chapter seventeen-c of this code,
16 having a saddle for the use of the rider and designed to
17 travel on not more than three wheels in contact with the
18 ground, but excluding a tractor.

19 (d) "School bus" means every motor vehicle owned by a
20 public governmental agency and operated for the trans-
21 portation of children to or from school or privately owned
22 and operated for compensation for the transportation of
23 children to or from school.

24 (e) "Bus" means every motor vehicle designed to carry
25 more than seven passengers and used to transport persons;
26 and every motor vehicle, other than a taxicab, designed
27 and used to transport persons for compensation.

28 (f) "Truck tractor" means every motor vehicle designed
29 and used primarily for drawing other vehicles and not so
30 constructed as to carry a load other than a part of the
31 weight of the vehicle and load so drawn.

32 (g) "Farm tractor" means every motor vehicle designed
33 and used primarily as a farm implement for drawing
34 plows, mowing machines and other implements of hus-
35 bandry.

36 (h) "Road tractor" means every motor vehicle designed,
37 used or maintained for drawing other vehicles and not so
38 constructed as to carry any load thereon either independ-
39 ently or any part of the weight of a vehicle or load so
40 drawn.

41 (i) "Truck" means every motor vehicle designed, used or
42 maintained primarily for the transportation of property.

43 (j) "Trailer" means every vehicle with or without motive
44 power designed for carrying persons or property and for
45 being drawn by a motor vehicle and so constructed that no
46 part of its weight rests upon the towing vehicle, but
47 excluding recreational vehicles.

48 (k) "Semitrailer" means every vehicle with or without
49 motive power designed for carrying persons or property
50 and for being drawn by a motor vehicle and so constructed
51 that some part of its weight and that of its load rests upon
52 or is carried by another vehicle.

53 (l) "Pole trailer" means every vehicle without motive
54 power designed to be drawn by another vehicle and
55 attached to the towing vehicle by means of a reach, or
56 pole, or by being boomed or otherwise secured to the
57 towing vehicle and ordinarily used for transporting long or
58 irregularly shaped loads such as poles, pipes or structural
59 members capable, generally, of sustaining themselves as
60 beams between the supporting connections.

61 (m) "Specially constructed vehicles" means every vehicle
62 of a type required to be registered hereunder not originally
63 constructed under a distinctive name, make, model or type
64 by a generally recognized manufacturer of vehicles and not
65 materially altered from its original construction.

66 (n) "Reconstructed vehicle" means every vehicle of a
67 type required to be registered hereunder materially altered
68 from its original construction by the removal, addition or
69 substitution of essential parts, new or used.

70 (o) "Essential parts" means all integral and body parts
71 of a vehicle of a type required to be registered hereunder,
72 the removal, alteration or substitution of which would
73 tend to conceal the identity of the vehicle or substantially
74 alter its appearance, model, type or mode of operation.

75 (p) "Foreign vehicle" means every vehicle of a type
76 required to be registered hereunder brought into this state
77 from another state, territory or country other than in the
78 ordinary course of business by or through a manufacturer
79 or dealer and not registered in this state.

80 (q) "Implement of husbandry" means every vehicle
81 which is designed for or adapted to agricultural purposes
82 and used by the owner thereof primarily in the conduct of
83 his agricultural operations, including, but not limited to,
84 trucks used for spraying trees and plants: *Provided*, That
85 the vehicle may not be let for hire at any time.

86 (r) "Special mobile equipment" means every self-pro-
87 pelled vehicle not designed or used primarily for the
88 transportation of persons or property and incidentally
89 operated or moved over the highways, including, without
90 limitation, road construction or maintenance machinery,
91 ditch-digging apparatus, stone crushers, air compressors,
92 power shovels, graders, rollers, well-drillers, wood-sawing
93 equipment, asphalt spreaders, bituminous mixers, bucket
94 loaders, ditchers, leveling graders, finishing machines,
95 motor graders, road rollers, scarifiers, earth-moving
96 carryalls, scrapers, drag lines, rock-drilling equipment and
97 earth-moving equipment. The foregoing enumeration shall
98 be deemed partial and may not operate to exclude other
99 such vehicles which are within the general terms of this
100 subdivision.

101 (s) "Pneumatic tire" means every tire in which com-
102 pressed air is designed to support the load.

103 (t) "Solid tire" means every tire of rubber or other
104 resilient material which does not depend upon compressed
105 air for the support of the load.

106 (u) "Metal tire" means every tire the surface of which in
107 contact with the highway is wholly or partly of metal or
108 other hard, nonresilient material.

109 (v) "Commissioner" means the commissioner of motor
110 vehicles of this state.

111 (w) "Division" means the division of motor vehicles of
112 this state acting directly or through its duly authorized
113 officers and agents.

114 (x) "Person" means every natural person, firm,
115 copartnership, association or corporation.

116 (y) "Owner" means a person who holds the legal title to
117 a vehicle, or in the event a vehicle is the subject of an
118 agreement for the conditional sale or lease thereof with the
119 right of purchase upon performance of the conditions
120 stated in the agreement and with an immediate right of
121 possession vested in the conditional vendee or lessee, or in
122 the event a mortgagor of a vehicle is entitled to possession,
123 then the conditional vendee or lessee or mortgagor shall be
124 deemed the owner for the purpose of this chapter.

125 (z) "Nonresident" means every person who is not a
126 resident of this state.

127 (aa) "Dealer" or "dealers" is a general term meaning,
128 depending upon the context in which used, either a new
129 motor vehicle dealer, used motor vehicle dealer, factory-
130 built home dealer, recreational vehicle dealer, trailer
131 dealer or motorcycle dealer, as defined in section one,
132 article six of this chapter, or all of the dealers or a combi-
133 nation thereof and, in some instances, a new motor vehicle
134 dealer or dealers in another state.

135 (bb) "Registered dealer" or "registered dealers" is a
136 general term meaning, depending upon the context in
137 which used, either a new motor vehicle dealer, used motor
138 vehicle dealer, house trailer dealer, trailer dealer, recre-
139 ational vehicle dealer or motorcycle dealer, or all of the

140 dealers or a combination thereof, licensed under the
141 provisions of article six of this chapter.

142 (cc) "Licensed dealer" or "licensed dealers" is a general
143 term meaning, depending upon the context in which used,
144 either a new motor vehicle dealer, used motor vehicle
145 dealer, house trailer dealer, trailer dealer, recreational
146 vehicle dealer or motorcycle dealer, or all of the dealers or
147 a combination thereof, licensed under the provisions of
148 article six of this chapter.

149 (dd) "Transporter" means every person engaged in the
150 business of delivering vehicles of a type required to be
151 registered hereunder from a manufacturing, assembling or
152 distributing plant to dealers or sales agents of a manufac-
153 turer.

154 (ee) "Manufacturer" means every person engaged in the
155 business of constructing or assembling vehicles of a type
156 required to be registered hereunder at a place of business
157 in this state which is actually occupied either continuously
158 or at regular periods by the manufacturer where his books
159 and records are kept and a large share of his business is
160 transacted.

161 (ff) "Street" or "highway" means the entire width
162 between boundary lines of every way publicly maintained
163 when any part thereof is open to the use of the public for
164 purposes of vehicular travel.

165 (gg) "Motorboat" means any vessel propelled by an
166 electrical, steam, gas, diesel or other fuel propelled or
167 driven motor, whether or not the motor is the principal
168 source of propulsion, but may not include a vessel which
169 has a valid marine document issued by the bureau of
170 customs of the United States government or any federal
171 agency successor thereto.

172 (hh) "Motorboat trailer" means every vehicle designed
173 for or ordinarily used for the transportation of a motor-
174 boat.

175 (ii) "All-terrain vehicle" (ATV) means any motor vehicle
176 designed for off-highway use having a seat or saddle
177 designed to be straddled by the operator and handlebars
178 for steering control.

179 (jj) "Travel trailer" means every vehicle, mounted on
180 wheels, designed to provide temporary living quarters for
181 recreational, camping or travel use of such size or weight
182 as not to require special highway movement permits when
183 towed by a motor vehicle and of gross trailer area less than
184 four hundred square feet.

185 (kk) "Fold down camping trailer" means every vehicle
186 consisting of a portable unit mounted on wheels and
187 constructed with collapsible partial sidewalls which fold
188 for towing by another vehicle and unfold at the camp site
189 to provide temporary living quarters for recreational,
190 camping or travel use.

191 (ll) "Motor home" means every vehicle, designed to
192 provide temporary living quarters, built into an integral
193 part of or permanently attached to a self-propelled motor
194 vehicle, chassis or van including: (1) Type A motor home
195 built on an incomplete truck chassis with the truck cab
196 constructed by the second stage manufacturer; (2) Type B
197 motor home consisting of a van-type vehicle which has
198 been altered to provide temporary living quarters; and (3)
199 Type C motor home built on an incomplete van or truck
200 chassis with a cab constructed by the chassis manufac-
201 turer.

202 (mm) "Snowmobile" means a self-propelled vehicle
203 intended for travel primarily on snow and driven by a
204 track or tracks in contact with the snow and steered by a
205 ski or skis in contact with the snow.

206 (nn) "Recreational vehicle" means a motorboat, motor-
207 boat trailer, all-terrain vehicle, travel trailer, fold down
208 camping trailer, motor home or snowmobile.

209 (oo) "Mobile equipment" means every self-propelled
210 vehicle not designed or used primarily for the transporta-

211 tion of persons or property over the highway but which
212 may infrequently or incidentally travel over the highways
213 among job sites, equipment storage sites or repair sites,
214 including farm equipment, implements of husbandry, well-
215 drillers, cranes and wood-sawing equipment.

216 (pp) "Factory-built home" includes mobile homes, house
217 trailers and manufactured homes.

218 (qq) "Manufactured home" has the same meaning as the
219 term is defined in section two, article nine, chapter
220 twenty-one of this code which meets the federal Manufac-
221 tured Housing Construction and Safety Standards Act of
222 1974 (42 U. S. C. §5401, *et seq.*), effective on the fifteenth
223 day of June, one thousand nine hundred seventy-six, and
224 the federal manufactured home construction and safety
225 standards and regulations promulgated by the secretary of
226 the United States department of housing and urban
227 development.

228 (rr) "Mobile home" means a transportable structure that
229 is wholly, or in substantial part, made, fabricated, formed
230 or assembled in manufacturing facilities for installation or
231 assembly and installation on a building site and designed
232 for long-term residential use and built prior to enactment
233 of the federal Manufactured Housing Construction and
234 Safety Standards Act of 1974 (42 U. S. C. §5401, *et seq.*),
235 effective on the fifteenth day of June, one thousand nine
236 hundred seventy-six, and usually built to the voluntary
237 industry standard of the American national standards
238 institute (ANSI) – A119.1 standards for mobile homes.

239 (ss) "House trailers" means all trailers designed and used
240 for human occupancy on a continual nonrecreational basis,
241 but may not include fold down camping and travel trailers,
242 mobile homes or manufactured homes.

243 (tt) "Parking enforcement vehicle" means a motor
244 vehicle which does not fit into any other classification of
245 vehicle in this chapter, has three or four wheels and is
246 designed for use in an incorporated municipality by a city,

247 county, state or other governmental entity primarily for
248 parking enforcement or other governmental purposes with
249 an operator area with sides permanently enclosed with
250 rigid construction and a top which may be convertible,
251 sealed beam headlights, turn signals, brake lights, horn, at
252 least one rear view mirror on each side and such other
253 equipment that will enable it to pass a standard motorcy-
254 cle vehicle inspection.

255 (uu) "Low-speed vehicle" means a four-wheeled motor
256 vehicle whose attainable speed in one mile on a paved level
257 surface is more than twenty miles per hour but not more
258 than twenty-five miles per hour.

**ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF
CERTIFICATES OF TITLE.**

**§17A-3-2. Every motor vehicle, etc., subject to registration and
certificate of title provisions; exceptions.**

1 (a) Every motor vehicle, trailer, semitrailer, pole trailer
2 and recreational vehicle when driven or moved upon a
3 highway is subject to the registration and certificate of
4 title provisions of this chapter except:

5 (1) Any vehicle driven or moved upon a highway in
6 conformance with the provisions of this chapter relating to
7 manufacturers, transporters, dealers, lienholders or
8 nonresidents or under a temporary registration permit
9 issued by the division as authorized under this chapter;

10 (2) Any implement of husbandry upon which is securely
11 attached a machine for spraying fruit trees and plants of
12 the owner or lessee or for any other implement of hus-
13 bandry which is used exclusively for agricultural or
14 horticultural purposes on lands owned or leased by the
15 owner of the implement and which is not operated on or
16 over any public highway of this state for any other purpose
17 other than for the purpose of operating it across a highway
18 or along a highway other than an expressway as desig-
19 nated by the commissioner of the division of highways

20 from one point of the owner's land to another part of the
21 owner's land, irrespective of whether or not the tracts
22 adjoin: *Provided*, That the distance between the points
23 may not exceed twenty-five miles, or for the purpose of
24 taking it or other fixtures attached to the implement, to
25 and from a repair shop for repairs. The exemption in this
26 subdivision from registration and license requirements
27 also applies to any vehicle described in this subsection or
28 to any farm trailer owned by the owner or lessee of the
29 farm on which the trailer is used, when the trailer is used
30 by the owner of the trailer for the purpose of moving farm
31 produce and livestock from the farm along a public
32 highway for a distance not to exceed twenty-five miles to
33 a storage house or packing plant, when the use is a sea-
34 sonal operation:

35 (A) The exemptions contained in this section also apply
36 to farm machinery and tractors: *Provided*, That the
37 machinery and tractors may use the highways in going
38 from one tract of land to another tract of land regardless
39 of whether the land is owned by the same or different
40 persons;

41 (B) Any vehicle exempted under this subsection from the
42 requirements of annual registration certificate and license
43 plates and fees for the registration certificate and license
44 plate may not use the highways between sunset and
45 sunrise unless the vehicle is classified as a Class A motor
46 vehicle with a farm-use exemption under the provisions of
47 section one, article ten of this chapter and has a valid and
48 current inspection sticker as required by the provisions of
49 article sixteen, chapter seventeen-c of this code and is
50 traveling from one tract of land to another over a distance
51 of twenty-five miles or less;

52 (C) Any vehicle exempted under this section from the
53 requirements of annual registration certificate and license
54 plates may use the highways as provided in this section
55 whether the exempt vehicle is self-propelled, towed by

56 another exempt vehicle or towed by another vehicle
57 required to be registered;

58 (D) Any vehicle used as an implement of husbandry
59 exempt under this section shall have the words "farm use"
60 affixed to both sides of the implement in ten-inch letters.
61 Any vehicle which would be subject to registration as a
62 Class A or B vehicle if not exempted by this section shall
63 display a farm-use exemption certificate on the lower
64 driver's side of the windshield:

65 (i) The farm-use exemption certificate shall be provided
66 by the commissioner and shall be issued annually by the
67 assessor of the applicant's county of residence. The
68 assessor shall issue a farm-use exemption certificate to the
69 applicant upon his or her determination pursuant to an
70 examination of the property books or documentation
71 provided by the applicant that the vehicle has been
72 properly assessed as Class I personal property. The
73 assessor shall charge a fee of two dollars for each certifi-
74 cate, which shall be retained by the assessor;

75 (ii) A farm-use exemption certificate shall not exempt
76 the applicant from maintaining the security required by
77 chapter seventeen-d of this code on any vehicle being
78 operated on the roads or highways of this state;

79 (iii) No person charged with the offense of operating a
80 vehicle without a farm-use exemption certificate, if
81 required under this section, may be convicted of the
82 offense if he or she produces in court, or in the office of the
83 arresting officer, a valid farm-use exemption certificate
84 for the vehicle in question within five days;

85 (3) Any vehicle which is propelled exclusively by electric
86 power obtained from overhead trolley wires though not
87 operated upon rails;

88 (4) Any vehicle of a type subject to registration which is
89 owned by the government of the United States;

90 (5) Any wrecked or disabled vehicle towed by a licensed
91 wrecker or dealer on the public highways of this state;

92 (6) The following recreational vehicles are exempt from
93 the requirements of annual registration, license plates and
94 fees, unless otherwise specified by law, but are subject to
95 the certificate of title provisions of this chapter regardless
96 of highway use: Motorboats, all-terrain vehicles and
97 snowmobiles; and

98 (7) Any special mobile equipment as defined in subsec-
99 tion (r), section one, article one of this chapter.

100 (b) Notwithstanding the provisions of subsection (a) of
101 this section:

102 (1) Mobile homes or manufactured homes are exempt
103 from the requirements of annual registration, license
104 plates and fees;

105 (2) House trailers may be registered and licensed; and

106 (3) Factory-built homes are subject to the certificate of
107 title provisions of this chapter.

108 (c) The division shall title and register low-speed vehi-
109 cles if the manufacturer's certificate of origin clearly
110 identifies the vehicle as a low-speed vehicle. The division
111 may not title or register homemade low-speed vehicles or
112 retrofitted golf carts and such vehicles do not qualify as
113 low-speed vehicles in this state. In addition to all other
114 motor vehicle laws and regulations, except as specifically
115 exempted below, low-speed vehicles are subject to the
116 following restrictions and requirements:

117 (1) Low-speed vehicles shall only be operated on private
118 roads and on public roads and streets within the corporate
119 limits of a municipality where the speed limit is not more
120 than twenty-five miles per hour;

121 (2) Notwithstanding any provisions in this code to the
122 contrary, low-speed vehicles shall meet the requirements
123 of 49 C. F. R. §571.500 (2003);

124 (3) In lieu of annual inspection, the owner of a low-speed
125 vehicle shall, upon initial application for registration and
126 each renewal thereafter, certify under penalty of false
127 swearing, that all lights, brakes, tires and seat belts are in
128 good working condition; and

129 (4) Any person operating a low-speed vehicle must hold
130 a valid driver's license, not an instruction permit.

**ARTICLE 6. LICENSING OF DEALERS AND WRECKERS OR
DISMANTLERS; SPECIAL PLATES; TEMPORARY
PLATES OR MARKERS.**

PART II. LICENSE CERTIFICATE PROVISIONS.

**§17A-6-3. License certificate required; engaging in more than
one business; established place of business re-
quired; civil penalties.**

1 (a) No person shall engage or represent or advertise that
2 he or she is engaged or intends to engage in the business of
3 new motor vehicle dealer, used motor vehicle dealer, house
4 trailer dealer, trailer dealer, recreational vehicle dealer,
5 motorcycle dealer, used parts dealer or wrecker or
6 dismantler in this state unless and until he or she first
7 obtains a license certificate therefor as provided in this
8 article, which license certificate remains unexpired,
9 unsuspended and unrevoked. Any person desiring to
10 engage in more than one such business must, subject to the
11 provisions of section five of this article, apply for and
12 obtain a separate license certificate for each such business.

13 (b) A person in business as a new motor vehicle or
14 recreational vehicle dealer may sell low-speed vehicles as
15 defined in section one, article one of this chapter.

16 (c) Except for the qualification contained in subdivision
17 (17), subsection (a), section one of this article with respect
18 to a new motor vehicle dealer, each place of business of a
19 new motor vehicle dealer, used motor vehicle dealer, house
20 trailer dealer, trailer dealer, recreational vehicle dealer,
21 motorcycle dealer, used parts dealer and wrecker or

22 dismantler must be an established place of business as
23 defined for such business in said section one.

24 (d) Any person who violates this section shall, in addi-
25 tion to any other penalty prescribed by law, be subject to
26 a civil penalty levied by the commissioner in an amount
27 not to exceed one thousand dollars for the first violation,
28 two thousand dollars for the second violation and five
29 thousand dollars for every subsequent violation.

30 (e) The commissioner shall promulgate rules, in accor-
31 dance with the provisions of chapter twenty-nine-a of this
32 code, establishing procedures whereby persons against
33 whom such civil penalties are to be assessed shall be
34 afforded all due process required pursuant to the provi-
35 sions of the West Virginia constitution.

**§17A-6-18. Investigation; matters confidential; grounds for
suspending or revoking license or imposing fine;
suspension and revocation generally.**

1 (a) The commissioner may conduct an investigation to
2 determine whether any provisions of this chapter have
3 been or are about to be violated by a licensee. Any investi-
4 gation shall be kept in strictest confidence by the commis-
5 sioner, the division, the licensee, any complainant and all
6 other persons, unless and until the commissioner suspends
7 or revokes the license certificate of the licensee involved or
8 fines the licensee: *Provided*, That the commissioner may
9 advise the motor vehicle dealers advisory board of pending
10 actions and may disclose to the motor vehicle dealers
11 advisory board any information that enables it to perform
12 its advisory function in imposing penalties. The commis-
13 sioner may suspend or revoke a license certificate, suspend
14 a special dealer plate or plates, impose a fine or take any
15 combination of these actions if the commissioner finds
16 that the licensee:

17 (1) Has failed or refused to comply with the laws of this
18 state relating to the registration and titling of vehicles and

19 the giving of notices of transfers, the provisions and
20 requirements of this article, or any reasonable rules
21 authorized in section nine, article two of this chapter and
22 promulgated to implement the provisions of this article by
23 the commissioner in accordance with the provisions of
24 article three, chapter twenty-nine-a of this code;

25 (2) Has given any check in the payment of any fee
26 required under the provisions of this chapter which is
27 dishonored;

28 (3) In the case of a dealer, has knowingly made or
29 permitted any unlawful use of any dealer special plate or
30 plates issued to him or her;

31 (4) In the case of a dealer, has a dealer special plate or
32 plates to which he or she is not lawfully entitled;

33 (5) Has knowingly made false statement of a material
34 fact in his or her application for the license certificate then
35 issued and outstanding;

36 (6) Has habitually defaulted on financial obligations;

37 (7) Does not have and maintain at each place of business,
38 (subject to the qualification contained in subdivision (17),
39 subsection (a), section one of this article with respect to a
40 new motor vehicle dealer) an established place of business
41 as defined for the business in question in section one of
42 this article;

43 (8) Has been guilty of any fraudulent act in connection
44 with the business of new motor vehicle dealer, used motor
45 vehicle dealer, house trailer dealer, trailer dealer, motorcy-
46 cle dealer, used parts dealer or wrecker or dismantler;

47 (9) Has defrauded or is attempting to defraud any buyer
48 or any other person, to the damage of the buyer or other
49 person, in the conduct of the licensee's business;

50 (10) Has defrauded or is attempting to defraud the state
51 or any political subdivision of the state of any taxes or fees
52 in connection with the sale or transfer of any vehicle;

53 (11) Has committed fraud in the registration of a vehicle;

54 (12) Has knowingly purchased, sold or otherwise dealt in
55 a stolen vehicle or vehicles;

56 (13) Has advertised by any means, with intent to de-
57 fraud, any material representation or statement of fact
58 which is untrue, misleading or deceptive in any particular
59 relating to the conduct of the licensed business;

60 (14) Has willfully failed or refused to perform any legally
61 binding written agreement with any buyer;

62 (15) Has made a fraudulent sale or purchase;

63 (16) Has failed or refused to assign, reassign or transfer
64 a proper certificate of title;

65 (17) Has a license certificate to which he or she is not
66 lawfully entitled;

67 (18) Has misrepresented a customer's credit or financial
68 status to obtain financing; or

69 (19) Has failed to reimburse, when ordered, any claim
70 against the dealer recovery fund as prescribed in section
71 two-a of this article.

72 The commissioner shall also suspend or revoke the
73 license certificate of a licensee if he or she finds the
74 existence of any ground upon which the license certificate
75 could have been refused or any ground which would be
76 cause for refusing a license certificate to the licensee were
77 he or she then applying for the license certificate.

78 (b) Whenever a licensee fails to keep the bond, unless
79 exempt from the requirement pursuant to section two-a of
80 this article or liability insurance required by section four
81 of this article, in full force and effect, or fails to provide
82 evidence of the bond or liability insurance, the commis-
83 sioner shall automatically suspend the license certificate
84 of the licensee unless and until a bond or certificate of

85 insurance as required by section four of this article is
86 furnished to the commissioner. When the licensee fur-
87 nishes the bond or certificate of insurance to the commis-
88 sioner and pays all reinstatement fees, the commissioner
89 shall vacate the suspension.

90 (c) Suspensions under this section shall continue until
91 the cause for the suspension has been eliminated or
92 corrected. Revocation of a license certificate shall not
93 preclude application for a new license certificate. The
94 commissioner shall process the application for a new
95 license certificate in the same manner and issue or refuse
96 to issue the license certificate on the same grounds as any
97 other application for a license certificate is processed,
98 considered and passed upon, except that the commissioner
99 may give any previous suspension and the revocation such
100 weight in deciding whether to issue or refuse the license
101 certificate as is correct and proper under all of the circum-
102 stances.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Calley Mc
.....
Chairman Senate Committee

Greg Butcher
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell G. Gibbs
.....
Clerk of the Senate

Gregory M. Sand
.....
Clerk of the House of Delegates

Carl Key Tomblin
.....
President of the Senate

Robert Skiff
.....
Speaker House of Delegates

The within is approved this the 2nd
Day of April....., 2004.

Bob Wise
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 4-1-04

Time 10:00 AM